

Union Calendar No. 148

109TH CONGRESS
1ST SESSION

H. R. 1751

[Report No. 109-271]

To amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2005

Mr. GOHMERT (for himself and Mr. WEINER) introduced the following bill;
which was referred to the Committee on the Judiciary

NOVEMBER 7, 2005

Additional sponsors: Mr. BOUSTANY, Mr. WILSON of South Carolina, Mr. KUHLMANN of New York, Mr. CHABOT, Mr. DANIEL E. LUNGREN of California, Mr. CONAWAY, Mr. ALEXANDER, and Mr. GALLEGLY

NOVEMBER 7, 2005

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 21, 2005]

A BILL

To amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Secure Access to Justice*
 5 *and Court Protection Act of 2005”.*

6 **SEC. 2. PENALTIES FOR INFLUENCING, IMPEDING, OR RE-**
 7 **TALIATING AGAINST JUDGES AND OTHER OF-**
 8 **FICIALS BY THREATENING OR INJURING A**
 9 **FAMILY MEMBER.**

10 *Section 115 of title 18, United States Code, is amend-*
 11 *ed—*

12 *(1) in each of subparagraphs (A) and (B) of sub-*
 13 *section (a)(1), by inserting “federally funded public*
 14 *safety officer (as defined for the purposes of section*
 15 *1123)” after “Federal law enforcement officer,”;*

16 *(2) so that subsection (b) reads as follows:*

17 *“(b)(1) Except as provided in paragraph (2), the pun-*
 18 *ishment for an offense under this section is as follows:*

19 *“(A) The punishment for an assault in violation*
 20 *of this section is the same as that provided for a like*
 21 *offense under section 111.*

22 *“(B) The punishment for a kidnapping, at-*
 23 *tempted kidnapping, or conspiracy to kidnap in vio-*
 24 *lation of this section is the same as provided for a*
 25 *like violation in section 1201.*

1 “(C) *The punishment for a murder, attempted*
2 *murder, or conspiracy to murder in violation of this*
3 *section is the same as provided for a like offense*
4 *under section 1111, 1113, and 1117.*

5 “(D) *A threat made in violation of this section*
6 *shall be punished by a fine under this title or impris-*
7 *onment for not more than 10 years, or both.*

8 “(2) *If the victim of the offense under this section is*
9 *an immediate family member of a United States judge, a*
10 *Federal law enforcement officer (as defined for the purposes*
11 *of section 1114) or of a federally funded public safety officer*
12 *(as defined for the purposes of section 1123), in lieu of the*
13 *punishments otherwise provided by paragraph (1), the pun-*
14 *ishments shall be as follows:*

15 “(A) *The punishment for an assault in violation*
16 *of this section is as follows:*

17 “(i) *If the assault is a simple assault, a fine*
18 *under this title or a term of imprisonment for*
19 *not more than one year, or both.*

20 “(ii) *If the assault resulted in bodily injury*
21 *(as defined in section 1365), a fine under this*
22 *title and a term of imprisonment for not less*
23 *than one year nor more than 10 years.*

24 “(iii) *If the assault resulted in substantial*
25 *bodily injury (as defined in section 113), a fine*

1 *under this title and a term of imprisonment for*
2 *not less than 3 years nor more than 12 years.*

3 “(iv) *If the assault resulted in serious bod-*
4 *ily injury (as defined in section 2119), a fine*
5 *under this title and a term of imprisonment for*
6 *not less than 10 years nor more than 30 years.*

7 “(B) *The punishment for a kidnapping, at-*
8 *tempted kidnapping, or conspiracy to kidnap in vio-*
9 *lation of this section is a fine under this title and im-*
10 *prisonment for any term of years not less than 30, or*
11 *for life.*

12 “(C) *The punishment for a murder, attempted*
13 *murder, or conspiracy to murder in violation of this*
14 *section is a fine under this title and imprisonment*
15 *for any term of years not less than 30, or for life, or,*
16 *if death results, the offender may be sentenced to*
17 *death.*

18 “(D) *A threat made in violation of this section*
19 *shall be punished by a fine under this title and im-*
20 *prisonment for not less than one year nor more than*
21 *10 years.*

22 “(E) *If a dangerous weapon was used during*
23 *and in relation to the offense, the punishment shall*
24 *include a term of imprisonment of 5 years in addi-*

1 *tion to that otherwise imposed under this para-*
 2 *graph.”.*

3 **SEC. 3. PENALTIES FOR CERTAIN ASSAULTS.**

4 *(a) INCLUSION OF FEDERALLY FUNDED PUBLIC SAFE-*
 5 *TY OFFICERS.—Section 111(a) of title 18, United States*
 6 *Code, is amended—*

7 *(1) in paragraph (1), by inserting “or a feder-*
 8 *ally funded public safety officer (as defined in section*
 9 *1123)” after “1114 of this title”; and*

10 *(2) in paragraph (2), by inserting “or a feder-*
 11 *ally funded public safety officer (as defined in section*
 12 *1123)” after “1114”.*

13 *(b) ALTERNATE PENALTY WHERE VICTIM IS A UNITED*
 14 *STATES JUDGE, A FEDERAL LAW ENFORCEMENT OFFICER,*
 15 *OR FEDERALLY FUNDED PUBLIC SAFETY OFFICER.—Sec-*
 16 *tion 111 of title 18, United States Code, is amended by add-*
 17 *ing at the end the following:*

18 *“(c) ALTERNATE PENALTY WHERE VICTIM IS A*
 19 *UNITED STATES JUDGE, A FEDERAL LAW ENFORCEMENT*
 20 *OFFICER, OR FEDERALLY FUNDED PUBLIC SAFETY OFFI-*
 21 *CER.—(1) Except as provided in paragraph (2), if the of-*
 22 *fense is an assault and the victim of the offense under this*
 23 *section is a United States judge, a Federal law enforcement*
 24 *officer (as defined for the purposes of section 1114) or of*
 25 *a federally funded public safety officer (as defined for the*

1 purposes of section 1123), in lieu of the penalties otherwise
 2 set forth in this section, the offender shall be subject to a
 3 fine under this title and—

4 “(A) If the assault is a simple assault, a fine
 5 under this title or a term of imprisonment for not
 6 more than one year, or both.

7 “(B) if the assault resulted in bodily injury (as
 8 defined in section 1365), shall be imprisoned not less
 9 than one nor more than 10 years;

10 “(C) if the assault resulted in substantial bodily
 11 injury (as defined in section 113), shall be impris-
 12 oned not less than 3 nor more than 12 years; and

13 “(D) if the assault resulted in serious bodily in-
 14 jury (as defined in section 2119), shall be imprisoned
 15 not less than 10 nor more than 30 years.

16 “(2) If a dangerous weapon was used during and in
 17 relation to the offense, the punishment shall include a term
 18 of imprisonment of 5 years in addition to that otherwise
 19 imposed under this subsection.”.

20 **SEC. 4. PROTECTION OF FEDERALLY FUNDED PUBLIC SAFE-**
 21 **TY OFFICERS.**

22 (a) *OFFENSE.*—Chapter 51 of title 18, United States
 23 Code, is amended by adding at the end the following:

1 **“§ 1123. Killing of federally funded public safety offi-**
2 **cers**

3 “(a) Whoever kills, or attempts or conspires to kill, a
4 *federally funded public safety officer while that officer is*
5 *engaged in official duties, or arising out of the performance*
6 *of official duties, or kills a former federally funded public*
7 *safety officer arising out of the performance of official du-*
8 *ties, shall be punished by a fine under this title and impris-*
9 *onment for any term of years not less than 30, or for life,*
10 *or, if death results, may be sentenced to death.*

11 “(b) *As used in this section—*

12 “(1) *the term ‘federally funded public safety offi-*
13 *cer’ means a public safety officer for a public agency*
14 *(including a court system, the National Guard of a*
15 *State to the extent the personnel of that National*
16 *Guard are not in Federal service, and the defense*
17 *forces of a State authorized by section 109 of title 32)*
18 *that receives Federal financial assistance, of an entity*
19 *that is a State of the United States, the District of*
20 *Columbia, the Commonwealth of Puerto Rico, the Vir-*
21 *gin Islands of the United States, Guam, American*
22 *Samoa, the Trust Territory of the Pacific Islands, the*
23 *Commonwealth of the Northern Mariana Islands, or*
24 *any territory or possession of the United States, an*
25 *Indian tribe, or a unit of local government of that en-*
26 *tity;*

1 “(2) the term ‘public safety officer’ means an in-
2 dividual serving a public agency in an official capac-
3 ity, as a judicial officer, as a law enforcement officer,
4 as a firefighter, as a chaplain, or as a member of a
5 rescue squad or ambulance crew;

6 “(3) the term ‘judicial officer’ means a judge or
7 other officer or employee of a court, including pros-
8 ecutors, court security, pretrial services officers, court
9 reporters, and corrections, probation, and parole offi-
10 cers; and

11 “(4) the term ‘firefighter’ includes an individual
12 serving as an official recognized or designated mem-
13 ber of a legally organized volunteer fire department
14 and an officially recognized or designated public em-
15 ployee member of a rescue squad or ambulance crew;
16 and

17 “(5) the term ‘law enforcement officer’ means an
18 individual involved in crime and juvenile delin-
19 quency control or reduction, or enforcement of the
20 laws.”.

21 (b) CLERICAL AMENDMENT.—The table of sections at
22 the beginning of chapter 51 of title 18, United States Code,
23 is amended by adding at the end the following new item:

 “1123. Killing of federally funded public safety officers.”.

1 **SEC. 5. GENERAL MODIFICATIONS OF FEDERAL MURDER**
 2 **CRIME AND RELATED CRIMES.**

3 (a) *MURDER AMENDMENTS.*—Section 1111 of title 18,
 4 *United States Code*, is amended in subsection (b), by insert-
 5 ing “not less than 30” after “any term of years”.

6 (b) *MANSLAUGHTER AMENDMENTS.*—Section 1112(b)
 7 of title 18, *United States Code*, is amended—

8 (1) by striking “ten years” and inserting “20
 9 years”; and

10 (2) by striking “six years” and inserting “10
 11 years”.

12 **SEC. 6. MODIFICATION OF DEFINITION OF OFFENSE AND**
 13 **OF THE PENALTIES FOR, INFLUENCING OR**
 14 **INJURING OFFICER OR JUROR GENERALLY.**

15 Section 1503 of title 18, *United States Code*, is amend-
 16 ed—

17 (1) so that subsection (a) reads as follows:

18 “(a)(1) Whoever—

19 “(A) corruptly, or by threats of force or force, en-
 20 deavors to influence, intimidate, or impede a juror or
 21 officer in a judicial proceeding in the discharge of
 22 that juror or officer’s duty;

23 “(B) injures a juror or an officer in a judicial
 24 proceeding arising out of the performance of official
 25 duties as such juror or officer; or

1 “(C) corruptly, or by threats of force or force, ob-
 2 structs, or impedes, or endeavors to influence, ob-
 3 struct, or impede, the due administration of justice;
 4 or attempts or conspires to do so, shall be punished as pro-
 5 vided in subsection (b).

6 “(2) As used in this section, the term ‘juror or officer
 7 in a judicial proceeding’ means a grand or petit juror, or
 8 other officer in or of any court of the United States, or an
 9 officer who may be serving at any examination or other
 10 proceeding before any United States magistrate judge or
 11 other committing magistrate.”; and

12 (2) in subsection (b), by striking paragraphs (1)
 13 through (3) and inserting the following:

14 “(1) in the case of a killing, or an attempt or
 15 a conspiracy to kill, the punishment provided in sec-
 16 tion 1111, 1112, 1113, and 1117; and

17 “(2) in any other case, a fine under this title
 18 and imprisonment for not more than 30 years.”.

19 **SEC. 7. MODIFICATION OF TAMPERING WITH A WITNESS,**
 20 **VICTIM, OR AN INFORMANT OFFENSE.**

21 (a) *CHANGES IN PENALTIES.*—Section 1512 of title 18,
 22 United States Code, is amended—

23 (1) in each of paragraphs (1) and (2) of sub-
 24 section (a), insert “or conspires” after “attempts”;

1 (2) so that subparagraph (A) of subsection (a)(3)
2 reads as follows:

3 “(A) in the case of a killing, the punishment pro-
4 vided in sections 1111 and 1112;”;

5 (3) in subsection (a)(3)—

6 (A) in the matter following clause (ii) of
7 subparagraph (B) by striking “20 years” and
8 inserting “30 years”; and

9 (B) in subparagraph (C), by striking “10
10 years” and inserting “20 years”;

11 (4) in subsection (b), by striking “ten years” and
12 inserting “30 years”; and

13 (5) in subsection (d), by striking “one year” and
14 inserting “20 years”.

15 **SEC. 8. MODIFICATION OF RETALIATION OFFENSE.**

16 Section 1513 of title 18, United States Code, is amend-
17 ed—

18 (1) in subsection (a)(1), by inserting “or con-
19 spires” after “attempts”;

20 (2) in subsection (a)(1)(B)—

21 (A) by inserting a comma after “proba-
22 tion”; and

23 (B) by striking the comma which imme-
24 diately follows another comma;

1 (3) in subsection (a)(2)(B), by striking “20
2 years” and inserting “30 years”;

3 (4) in subsection (b), by striking “ten years” and
4 inserting “30 years”;

5 (5) in the first subsection (e), by striking “10
6 years” and inserting “30 years”; and

7 (6) by redesignating the second subsection (e) as
8 subsection (f).

9 **SEC. 9. INCLUSION OF INTIMIDATION AND RETALIATION**
10 **AGAINST WITNESSES IN STATE PROSECU-**
11 **TIONS AS BASIS FOR FEDERAL PROSECU-**
12 **TION.**

13 Section 1952 of title 18, United States Code, is amend-
14 ed in subsection (b)(2), by inserting “intimidation of, or
15 retaliation against, a witness, victim, juror, or informant,”
16 after “extortion, bribery,”.

17 **SEC. 10. CLARIFICATION OF VENUE FOR RETALIATION**
18 **AGAINST A WITNESS.**

19 Section 1513 of title 18, United States Code, is amend-
20 ed by adding at the end the following:

21 “(g) A prosecution under this section may be brought
22 in the district in which the official proceeding (whether or
23 not pending, about to be instituted or completed) was in-
24 tended to be affected or was completed, or in which the con-
25 duct constituting the alleged offense occurred.”.

1 **SEC. 11. WITNESS PROTECTION GRANT PROGRAM.**

2 *Title I of the Omnibus Crime Control and Safe Streets*
 3 *Act of 1968 is amended by inserting after part BB (42*
 4 *U.S.C. 3797j et seq.) the following new part:*

5 **“PART CC—WITNESS PROTECTION GRANTS**

6 **“SEC. 2811. PROGRAM AUTHORIZED.**

7 *“(a) IN GENERAL.—From amounts made available to*
 8 *carry out this part, the Attorney General may make grants*
 9 *to States, units of local government, and Indian tribes to*
 10 *create and expand witness protection programs in order to*
 11 *prevent threats, intimidation, and retaliation against vic-*
 12 *tims of, and witnesses to, crimes.*

13 *“(b) USES OF FUNDS.—Grants awarded under this*
 14 *part shall be—*

15 *“(1) distributed directly to the State, unit of*
 16 *local government, or Indian tribe; and*

17 *“(2) used for the creation and expansion of wit-*
 18 *ness protection programs in the jurisdiction of the*
 19 *grantee.*

20 *“(c) PREFERENTIAL CONSIDERATION.—In awarding*
 21 *grants under this part, the Attorney General may give pref-*
 22 *erential consideration, if feasible, to an application from*
 23 *a jurisdiction that—*

24 *“(1) has the greatest need for witness and victim*
 25 *protection programs;*

1 “(2) has a serious violent crime problem in the
2 jurisdiction; and

3 “(3) has had, or is likely to have, instances of
4 threats, intimidation, and retaliation against victims
5 of, and witnesses to, crimes.

6 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—There
7 are authorized to be appropriated to carry out this section
8 \$20,000,000 for each of fiscal years 2006 through 2010.”.

9 **SEC. 12. GRANTS TO STATES TO PROTECT WITNESSES AND**
10 **VICTIMS OF CRIMES.**

11 (a) *IN GENERAL.*—Section 31702 of the Violent Crime
12 Control and Law Enforcement Act of 1994 (42 U.S.C.
13 13862) is amended—

14 (1) in paragraph (3), by striking “and” at the
15 end;

16 (2) in paragraph (4), by striking the period at
17 the end and inserting “; and” ; and

18 (3) by adding at the end the following:

19 “(5) to create and expand witness and victim
20 protection programs to prevent threats, intimidation,
21 and retaliation against victims of, and witnesses to,
22 violent crimes.”.

23 (b) *AUTHORIZATION OF APPROPRIATIONS.*—Section
24 31707 of the Violent Crime Control and Law Enforcement

1 *Act of 1994 (42 U.S.C. 13867) is amended to read as fol-*
 2 *lows:*

3 **“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

4 *“There are authorized to be appropriated \$20,000,000*
 5 *for each of the fiscal years 2006 through 2010 to carry out*
 6 *this subtitle.”.*

7 **SEC. 13. JUDICIAL BRANCH SECURITY REQUIREMENTS.**

8 *(a) ENSURING CONSULTATION AND COORDINATION*
 9 *WITH THE ADMINISTRATIVE OFFICE OF THE UNITED*
 10 *STATES COURTS.—Section 566 of title 28, United States*
 11 *Code, is amended by adding at the end the following:*

12 *“(i) The United States Marshals Service shall consult*
 13 *with the Administrative Office of the United States Courts*
 14 *on a continuing basis regarding the security requirements*
 15 *for the Judicial Branch, and inform the Administrative Of-*
 16 *fice of the measures the Marshals Service intends to take*
 17 *to meet those requirements.”.*

18 *(b) CONFORMING AMENDMENT.—Section 604(a) of*
 19 *title 28, United States Code, is amended—*

20 *(1) by redesignating existing paragraph (24) as*
 21 *paragraph (25);*

22 *(2) by striking “and” at the end of paragraph*
 23 *(23); and*

24 *(3) by inserting after paragraph (23) the fol-*
 25 *lowing:*

1 “(24) Consult with the United States Marshals
 2 Service on a continuing basis regarding the security
 3 requirements for the Judicial Branch, and inform the
 4 Administrative Office of the measures the Marshals
 5 Service intends to take to meet those requirements;
 6 and”.

7 **SEC. 14. PROTECTIONS AGAINST MALICIOUS RECORDING**
 8 **OF FICTITIOUS LIENS AGAINST A FEDERAL**
 9 **EMPLOYEE.**

10 (a) *OFFENSE.*—Chapter 73 of title 18, United States
 11 Code, is amended by adding at the end the following:

12 **“§1521. Retaliating against a Federal employee by**
 13 **false claim or slander of title**

14 “Whoever, with the intent to harass a person des-
 15 ignated in section 1114 on account of the performance of
 16 official duties, files, in any public record or in any private
 17 record which is generally available to the public, any false
 18 lien or encumbrance against the real or personal property
 19 of that person, or attempts or conspires to do so, shall be
 20 fined under this title or imprisoned not more than 10 years,
 21 or both.”.

22 (b) *CLERICAL AMENDMENT.*—The table of sections at
 23 the beginning of chapter 73 of title 18, United States Code,
 24 is amended by adding at the end the following new item:

“1521. Retaliating against a Federal employee by false claim or slander of title.”.

1 **SEC. 15. PROHIBITION OF POSSESSION OF DANGEROUS**
2 **WEAPONS IN FEDERAL COURT FACILITIES.**

3 *Section 930(e) of title 18, United States Code, is*
4 *amended by inserting “or other dangerous weapon” after*
5 *“firearm”.*

6 **SEC. 16. REPEAL OF SUNSET PROVISION.**

7 *Section 105(b)(3) of the Ethics in Government Act of*
8 *1978 (5 U.S.C. App) is amended by striking subparagraph*
9 *(E).*

10 **SEC. 17. PROTECTION OF INDIVIDUALS PERFORMING CER-**
11 **TAIN FEDERAL AND OTHER FUNCTIONS.**

12 *(a) OFFENSE.—Chapter 7 of title 18, United States*
13 *Code, is amended by adding at the end the following:*

14 **“§ 117. Protection of individuals performing certain**
15 **Federal and federally assisted functions**

16 *“(a) Whoever knowingly, and with intent to harm, in-*
17 *timidate, or retaliate against a covered official makes re-*
18 *stricted personal information about that covered official*
19 *publicly available through the Internet shall be fined under*
20 *this title and imprisoned not more than 5 years, or both.*

21 *“(b) It is a defense to a prosecution under this section*
22 *that the defendant is a provider of Internet services and*
23 *did not knowingly participate in the offense.*

24 *“(c) As used in this section—*

25 *“(1) the term ‘restricted personal information’*
26 *means, with respect to an individual, the Social Secu-*

1 *city number, the home address, home phone number,*
 2 *mobile phone number, personal email, or home fax*
 3 *number of, and identifiable to, that individual; and*

4 *“(2) the term ‘covered official’ means—*

5 *“(A) an individual designated in section*
 6 *1114;*

7 *“(B) a public safety officer (as that term is*
 8 *defined in section 1204 of the Omnibus Crime*
 9 *Control and Safe Streets Act of 1968); or*

10 *“(C) a grand or petit juror, witness, or*
 11 *other officer in or of, any court of the United*
 12 *States, or an officer who may be serving at any*
 13 *examination or other proceeding before any*
 14 *United States magistrate judge or other commit-*
 15 *ting magistrate.”.*

16 *(b) CLERICAL AMENDMENT.—The table of sections at*
 17 *the beginning of chapter 7 of title 18, United States Code,*
 18 *is amended by adding at the end the following new item:*

“117. Protection of individuals performing certain Federal and federally assisted
 functions.”.

1 **SEC. 18. ELIGIBILITY OF COURTS TO APPLY DIRECTLY FOR**
 2 **LAW ENFORCEMENT DISCRETIONARY**
 3 **GRANTS AND REQUIREMENT THAT STATE**
 4 **AND LOCAL GOVERNMENTS CONSIDER**
 5 **COURTS WHEN APPLYING FOR GRANT FUNDS.**

6 *(a) COURTS TREATED AS UNITS OF LOCAL GOVERN-*
 7 *MENTS FOR PURPOSES OF DISCRETIONARY GRANTS.—Sec-*
 8 *tion 901 of the Omnibus Crime Control and Safe Streets*
 9 *Act of 1968 (42 U.S.C. 3791) is amended in subsection*
 10 *(a)(3)—*

11 *(1) by redesignating subparagraphs (C) and (D)*
 12 *as subparagraphs (D) and (E), respectively; and*

13 *(2) by inserting after subparagraph (B) the fol-*
 14 *lowing new subparagraph:*

15 *“(C) the judicial branch of a State or of a*
 16 *unit of local government within the State for*
 17 *purposes of discretionary grants;”.*

18 *(b) STATE AND LOCAL GOVERNMENTS TO CONSIDER*
 19 *COURTS.—The Attorney General shall ensure that whenever*
 20 *a State or unit of local government applies for a grant from*
 21 *the Department of Justice, the State or unit demonstrate*
 22 *that, in developing the application and distributing funds,*
 23 *the State or unit—*

24 *(1) considered the needs of the judicial branch of*
 25 *the State or unit, as the case may be; and*

1 (2) *consulted with the chief judicial officer of the*
2 *highest court of the State or unit, as the case may be.*

3 **SEC. 19. REPORT ON SECURITY OF FEDERAL PROSECU-**
4 **TORS.**

5 *Not later than 90 days after the date of the enactment*
6 *of this Act, the Attorney General shall submit to the Com-*
7 *mittee on the Judiciary of the House of Representatives and*
8 *the Committee on the Judiciary of the Senate a report on*
9 *the security of assistant United States attorneys and other*
10 *Federal attorneys arising from the prosecution of terrorists,*
11 *violent criminal gangs, drug traffickers, gun traffickers,*
12 *white supremacists, and those who commit fraud and other*
13 *white-collar offenses. The report shall describe each of the*
14 *following:*

15 (1) *The number and nature of threats and as-*
16 *saults against attorneys handling those prosecutions*
17 *and the reporting requirements and methods.*

18 (2) *The security measures that are in place to*
19 *protect the attorneys who are handling those prosecu-*
20 *tions, including measures such as threat assessments,*
21 *response procedures, availability of security systems*
22 *and other devices, firearms licensing (deputations),*
23 *and other measures designed to protect the attorneys*
24 *and their families.*

1 (3) *The Department of Justice’s firearms deputa-*
2 *tion policies, including the number of attorneys depu-*
3 *tized and the time between receipt of threat and com-*
4 *pletion of the deputation and training process.*

5 (4) *For each measure covered by paragraphs (1)*
6 *through (3), when the report or measure was devel-*
7 *oped and who was responsible for developing and im-*
8 *plementing the report or measure.*

9 (5) *The programs that are made available to the*
10 *attorneys for personal security training, including*
11 *training relating to limitations on public information*
12 *disclosure, basic home security, firearms handling*
13 *and safety, family safety, mail handling, counter-*
14 *surveillance, and self-defense tactics.*

15 (6) *The measures that are taken to provide the*
16 *attorneys with secure parking facilities, and how pri-*
17 *orities for such facilities are established—*

18 (A) *among Federal employees within the fa-*
19 *cility;*

20 (B) *among Department of Justice employees*
21 *within the facility; and*

22 (C) *among attorneys within the facility.*

23 (7) *The frequency such attorneys are called upon*
24 *to work beyond standard work hours and the security*
25 *measures provided to protect attorneys at such times*

1 *during travel between office and available parking fa-*
2 *cilities.*

3 *(8) With respect to attorneys who are licensed*
4 *under State laws to carry firearms, the Department*
5 *of Justice's policy as to—*

6 *(A) carrying the firearm between available*
7 *parking and office buildings;*

8 *(B) securing the weapon at the office build-*
9 *ings; and*

10 *(C) equipment and training provided to fa-*
11 *cilitate safe storage at Department of Justice fa-*
12 *cilities.*

13 *(9) The offices in the Department of Justice that*
14 *are responsible for ensuring the security of the attor-*
15 *neys, the organization and staffing of the offices, and*
16 *the manner in which the offices coordinate with of-*
17 *fices in specific districts.*

18 *(10) The role, if any, that the United States*
19 *Marshals Service or any other Department of Justice*
20 *component plays in protecting, or providing security*
21 *services or training for, the attorneys.*

22 **SEC. 20. FLIGHT TO AVOID PROSECUTION FOR KILLING**
23 **PEACE OFFICERS.**

24 *(a) FLIGHT.—Chapter 49 of title 18, United States*
25 *Code, is amended by adding at the end the following:*

1 **“§ 1075. *Flight to avoid prosecution for killing peace***
 2 ***officers***

3 *“Whoever moves or travels in interstate or foreign com-*
 4 *merce with intent to avoid prosecution, or custody or con-*
 5 *finement after conviction, under the laws of the place from*
 6 *which he flees or under section 1114 or 1123, for a crime*
 7 *consisting of the killing, an attempted killing, or a con-*
 8 *spiracy to kill, an individual involved in crime and juve-*
 9 *nile delinquency control or reduction, or enforcement of the*
 10 *laws or for a crime punishable by section 1114 or 1123,*
 11 *shall be fined under this title and imprisoned, in addition*
 12 *to any other imprisonment for the underlying offense, for*
 13 *any term of years not less than 10.”.*

14 (b) *CLERICAL AMENDMENT.—The table of sections at*
 15 *the beginning of chapter 49 of title 18, United States Code,*
 16 *is amended by adding at the end the following new item:*
“1075. Flight to avoid prosecution for killing peace officers.”.

17 **SEC. 21. SPECIAL PENALTIES FOR MURDER, KIDNAPPING,**
 18 **AND RELATED CRIMES AGAINST FEDERAL**
 19 **JUDGES AND FEDERAL LAW ENFORCEMENT**
 20 **OFFICERS.**

21 (a) *MURDER.—Section 1114 of title 18, United States*
 22 *Code, is amended—*

23 (1) *by inserting “(a)” before “Whoever”;* and

24 (2) *by adding at the end the following:*

1 “(b) *If the victim of a murder punishable under this*
 2 *section is a United States judge (as defined in section 115)*
 3 *or a Federal law enforcement officer (as defined in 115)*
 4 *the offender shall be punished by a fine under this title and*
 5 *imprisonment for any term of years not less than 30, or*
 6 *for life, or, if death results, may be sentenced to death.”.*

7 (b) *KIDNAPPING.—Section 1201(a) of title 18, United*
 8 *States Code, is amended by adding at the end the following:*
 9 *“If the victim of the offense punishable under this subsection*
 10 *is a United States judge (as defined in section 115) or a*
 11 *Federal law enforcement officer (as defined in 115) the of-*
 12 *fender shall be punished by a fine under this title and im-*
 13 *prisonment for any term of years not less than 30, or for*
 14 *life, or, if death results, may be sentenced to death.”.*

15 **SEC. 22. MEDIA COVERAGE OF COURT PROCEEDINGS.**

16 (a) *FINDINGS.—The Congress makes the following*
 17 *findings:*

18 (1) *The right of the people of the United States*
 19 *to freedom of speech, particularly as it relates to com-*
 20 *ment on governmental activities, as protected by the*
 21 *first amendment to the Constitution, cannot be mean-*
 22 *ingfully exercised without the ability of the public to*
 23 *obtain facts and information about the Government*
 24 *upon which to base their judgments regarding impor-*
 25 *tant issues and events. As the United States Supreme*

1 Court articulated in *Craig v. Harney*, 331 U.S. 367
2 (1947), “A trial is a public event. What transpires in
3 the court room is public property.”.

4 (2) *The right of the people of the United States*
5 *to a free press, with the ability to report on all as-*
6 *pects of the conduct of the business of government, as*
7 *protected by the first amendment to the Constitution,*
8 *cannot be meaningfully exercised without the ability*
9 *of the news media to gather facts and information*
10 *freely for dissemination to the public.*

11 (3) *The right of the people of the United States*
12 *to petition the Government to redress grievances, par-*
13 *ticularly as it relates to the manner in which the*
14 *Government exercises its legislative, executive, and ju-*
15 *dicial powers, as protected by the first amendment to*
16 *the Constitution, cannot be meaningfully exercised*
17 *without the availability to the public of information*
18 *about how the affairs of government are being con-*
19 *ducted. As the Supreme Court noted in Richmond*
20 *Newspapers, Inc. v. Commonwealth of Virginia*
21 *(1980), “People in an open society do not demand in-*
22 *fallibility from their institutions, but it is difficult for*
23 *them to accept what they are prohibited from observ-*
24 *ing.”.*

1 (4) *In the twenty-first century, the people of the*
2 *United States obtain information regarding judicial*
3 *matters involving the Constitution, civil rights, and*
4 *other important legal subjects principally through the*
5 *print and electronic media. Television, in particular,*
6 *provides a degree of public access to courtroom pro-*
7 *ceedings that more closely approximates the ideal of*
8 *actual physical presence than newspaper coverage or*
9 *still photography.*

10 (5) *Providing statutory authority for the courts*
11 *of the United States to exercise their discretion in*
12 *permitting televised coverage of courtroom proceedings*
13 *would enhance significantly the access of the people to*
14 *the Federal judiciary.*

15 (6) *Inasmuch as the first amendment to the Con-*
16 *stitution prevents Congress from abridging the ability*
17 *of the people to exercise their inherent rights to free-*
18 *dom of speech, to freedom of the press, and to petition*
19 *the Government for a redress of grievances, it is good*
20 *public policy for the Congress affirmatively to facili-*
21 *tate the ability of the people to exercise those rights.*

22 (7) *The granting of such authority would assist*
23 *in the implementation of the constitutional guarantee*
24 *of public trials in criminal cases, as provided by the*
25 *sixth amendment to the Constitution. As the Supreme*

1 Court stated in *In re Oliver* (1948), “Whatever other
 2 benefits the guarantee to an accused that his trial be
 3 conducted in public may confer upon our society, the
 4 guarantee has always been recognized as a safeguard
 5 against any attempt to employ our courts as instru-
 6 ments of persecution. The knowledge that every crimi-
 7 nal trial is subject to contemporaneous review in the
 8 forum of public opinion is an effective restraint on
 9 possible abuse of judicial power.”.

10 (b) *AUTHORITY OF PRESIDING JUDGE TO ALLOW*
 11 *MEDIA COVERAGE OF COURT PROCEEDINGS.*—

12 (1) *AUTHORITY OF APPELLATE COURTS.*—Not-
 13 withstanding any other provision of law, the pre-
 14 siding judge of an appellate court of the United
 15 States may, in his or her discretion, permit the
 16 photographing, electronic recording, broadcasting, or
 17 televising to the public of court proceedings over
 18 which that judge presides.

19 (2) *AUTHORITY OF DISTRICT COURTS.*—

20 (A) *IN GENERAL.*—Notwithstanding any
 21 other provision of law, any presiding judge of a
 22 district court of the United States may, in his or
 23 her discretion, permit the photographing, elec-
 24 tronic recording, broadcasting, or televising to

1 *the public of court proceedings over which that*
2 *judge presides.*

3 *(B) OBSCURING OF WITNESSES AND JU-*
4 *RORS.—(i) Upon the request of any witness*
5 *(other than a party) or a juror in a trial pro-*
6 *ceeding, the court shall order the face and voice*
7 *of the witness or juror (as the case may be) to*
8 *be disguised or otherwise obscured in such man-*
9 *ner as to render the witness or juror unrecogniz-*
10 *able to the broadcast audience of the trial pro-*
11 *ceeding.*

12 *(ii) The presiding judge in a trial pro-*
13 *ceeding shall inform—*

14 *(I) each witness who is not a party*
15 *that the witness has the right to request that*
16 *his or her image and voice be obscured dur-*
17 *ing the witness' testimony; and*

18 *(II) each juror that the juror has the*
19 *right to request that his or her image be ob-*
20 *scured during the trial proceeding.*

21 *(3) ADVISORY GUIDELINES.—The Judicial Con-*
22 *ference of the United States is authorized to promul-*
23 *gate advisory guidelines to which a presiding judge,*
24 *in his or her discretion, may refer in making deci-*
25 *sions with respect to the management and adminis-*

1 *tration of photographing, recording, broadcasting, or*
 2 *televising described in paragraphs (1) and (2).*

3 *(c) DEFINITIONS.—In this section:*

4 *(1) PRESIDING JUDGE.—The term “presiding*
 5 *judge” means the judge presiding over the court pro-*
 6 *ceeding concerned. In proceedings in which more than*
 7 *one judge participates, the presiding judge shall be the*
 8 *senior active judge so participating or, in the case of*
 9 *a circuit court of appeals, the senior active circuit*
 10 *judge so participating, except that—*

11 *(A) in en banc sittings of any United States*
 12 *circuit court of appeals, the presiding judge shall*
 13 *be the chief judge of the circuit whenever the*
 14 *chief judge participates; and*

15 *(B) in en banc sittings of the Supreme*
 16 *Court of the United States, the presiding judge*
 17 *shall be the Chief Justice whenever the Chief Jus-*
 18 *tice participates.*

19 *(2) APPELLATE COURT OF THE UNITED*
 20 *STATES.—The term “appellate court of the United*
 21 *States” means any United States circuit court of ap-*
 22 *peals and the Supreme Court of the United States.*

23 *(d) SUNSET.—The authority under subsection (b)(2)*
 24 *shall terminate on the date that is 3 years after the date*
 25 *of the enactment of this Act.*

1 **SEC. 23. FUNDING FOR STATE COURTS TO ASSESS AND EN-**
2 **HANCE COURT SECURITY AND EMERGENCY**
3 **PREPAREDNESS.**

4 (a) *IN GENERAL.*—*The Attorney General, through the*
5 *Office of Justice Programs, shall make grants under this*
6 *section to the highest State courts in States participating*
7 *in the program, for the purpose of enabling such courts—*

8 (1) *to conduct assessments focused on the essen-*
9 *tial elements for effective courtroom safety and secu-*
10 *rity planning; and*

11 (2) *to implement changes deemed necessary as a*
12 *result of the assessments.*

13 (b) *ESSENTIAL ELEMENTS.*—*As used in subsection*
14 *(a)(1), the essential elements include, but are not limited*
15 *to—*

16 (1) *operational security and standard operating*
17 *procedures;*

18 (2) *facility security planning and self-audit sur-*
19 *veys of court facilities;*

20 (3) *emergency preparedness and response and*
21 *continuity of operations;*

22 (4) *disaster recovery and the essential elements of*
23 *a plan;*

24 (5) *threat assessment;*

25 (6) *incident reporting;*

26 (7) *security equipment;*

4 (c) *APPLICATIONS.*—*To be eligible for a grant under*
5 *this section, a highest State court shall submit to the Attor-*
6 *ney General an application at such time, in such form, and*
7 *including such information and assurances as the Attorney*
8 *General shall require.*

12 **SEC. 24. ADDITIONAL AMOUNTS FOR UNITED STATES MAR-**
13 **SHALS SERVICE TO PROTECT THE JUDICIARY.**

14 *In addition to any other amounts authorized to be ap-*
15 *propriated for the United States Marshals Service, there are*
16 *authorized to be appropriated for the United States Mar-*
17 *shals Service to protect the judiciary, \$20,000,000 for each*
18 *of fiscal years 2006 through 2010 for—*

19 (1) hiring entry-level deputy marshals for pro-
20 viding judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and Assistant United States Attorneys; and

1 (3) *for the Office of Protective Intelligence, for*
 2 *hiring senior-level deputy marshals, hiring program*
 3 *analysts, and providing secure computer systems.*

4 **SEC. 25. GRANTS TO STATES FOR THREAT ASSESSMENT**
 5 **DATABASES.**

6 (a) *IN GENERAL.*—*From amounts made available to*
 7 *carry out this section, the Attorney General shall carry out*
 8 *a program under which the Attorney General makes grants*
 9 *to States for use by the State to establish and maintain*
 10 *a threat assessment database described in subsection (b).*

11 (b) *DATABASE.*—*For purposes of subsection (a), a*
 12 *threat assessment database is a database through which a*
 13 *State can—*

14 (1) *analyze trends and patterns in domestic ter-*
 15 *rorism and crime;*

16 (2) *project the probabilities that specific acts of*
 17 *domestic terrorism or crime will occur; and*

18 (3) *develop measures and procedures that can ef-*
 19 *fectively reduce the probabilities that those acts will*
 20 *occur.*

21 (c) *CORE ELEMENTS.*—*The Attorney General shall de-*
 22 *fine a core set of data elements to be used by each database*
 23 *funded by this section so that the information in the data-*
 24 *base can be effectively shared with other States and with*
 25 *the Department of Justice.*

1 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 2 *authorized to be appropriated to carry out this section such*
 3 *sums as may be necessary for each of fiscal years 2006*
 4 *through 2009.*

5 **SEC. 26. GRANTS FOR YOUNG WITNESS ASSISTANCE.**

6 (a) *DEFINITIONS.*—*For purposes of this section:*

7 (1) *DIRECTOR.*—*The term “Director” means the*
 8 *Director of the Bureau of Justice Assistance.*

9 (2) *JUVENILE.*—*The term “juvenile” means an*
 10 *individual who is 17 years of age or younger.*

11 (3) *YOUNG ADULT.*—*The term “young adult”*
 12 *means an individual who is between the ages of 18*
 13 *and 21.*

14 (4) *STATE.*—*The term “State” means any State*
 15 *of the United States, the District of Columbia, the*
 16 *Commonwealth of Puerto Rico, the Virgin Islands,*
 17 *American Samoa, Guam, and the Northern Mariana*
 18 *Islands.*

19 (b) *PROGRAM AUTHORIZATION.*—*The Director may*
 20 *make grants to State and local prosecutors and law enforce-*
 21 *ment agencies in support of juvenile and young adult wit-*
 22 *ness assistance programs, including State and local pros-*
 23 *ecutors and law enforcement agencies that have existing ju-*
 24 *venile and adult witness assistance programs.*

1 (c) *ELIGIBILITY.*—*To be eligible to receive a grant*
2 *under this section, State and local prosecutors and law en-*
3 *forcement officials shall—*

4 (1) *submit an application to the Director in*
5 *such form and containing such information as the*
6 *Director may reasonably require; and*

7 (2) *give assurances that each applicant has de-*
8 *veloped, or is in the process of developing, a witness*
9 *assistance program that specifically targets the*
10 *unique needs of juvenile and young adult witnesses*
11 *and their families.*

12 (d) *USE OF FUNDS.*—*Grants made available under*
13 *this section may be used—*

14 (1) *to assess the needs of juvenile and young*
15 *adult witnesses;*

16 (2) *to develop appropriate program goals and*
17 *objectives; and*

18 (3) *to develop and administer a variety of wit-*
19 *ness assistance services, which includes—*

20 (A) *counseling services to young witnesses*
21 *dealing with trauma associated in witnessing a*
22 *violent crime;*

23 (B) *pre- and post-trial assistance for the*
24 *youth and their family;*

1 (C) providing education services if the child
2 is removed from or changes their school for safety
3 concerns;

4 (D) protective services for young witnesses
5 and their families when a serious threat of harm
6 from the perpetrators or their associates is made;
7 and

8 (E) community outreach and school-based
9 initiatives that stimulate and maintain public
10 awareness and support.

11 (e) *REPORTS.*—

12 (1) *REPORT.*—State and local prosecutors and
13 law enforcement agencies that receive funds under this
14 section shall submit to the Director a report not later
15 than May 1st of each year in which grants are made
16 available under this section. Reports shall describe
17 progress achieved in carrying out the purpose of this
18 section.

19 (2) *REPORT TO CONGRESS.*—The Director shall
20 submit to Congress a report by July 1st of each year
21 which contains a detailed statement regarding grant
22 awards, activities of grant recipients, a compilation
23 of statistical information submitted by applicants,
24 and an evaluation of programs established under this
25 section.

1 (f) *AUTHORIZATION OF APPROPRIATIONS.—There are*
2 *authorized to be appropriated to carry out this section*
3 *\$3,000,000 for each of fiscal years 2006, 2007, and 2008.*

Union Calendar No. 148

109TH CONGRESS
1ST Session

H. R. 1751

[Report No. 109-271]

A BILL

To amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

NOVEMBER 7, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed